

Appl. No. 10/618,472
Atty. Docket No. AA603
Amdt. dated June 5, 2006
Reply to Office Action of March 3, 2006
Customer No. 27752

REMARKS

Claim Status

Claims 1-3 and 5-8 are pending in the present application. No additional claims fee is believed to be due.

Claims 1, 2, and 5 have been amended. It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC §112, First Paragraph

The Office Action States that Claim 1 is indefinite as the term "about" 1.7% is viewed as indefinite. The term "about" has been removed from Claim 1 to more specifically define the invention.

The Office Action states that Claim 2 is indefinite as the term "high purity" remains an indefinite, undefined term of degree. The term "high purity" has been removed from Claim 2.

The Office Action states that Claim 5 is indefinite as it depends from a cancelled claim. Claim 5 has been amended to depend from Claim 1.

Rejection Under 35 USC §103(a)

Claims 1-3 and 5-8 have been rejected under 35 USC §103(a) as being unpatentable over USP 4,428,928 (Muhler et al.) in view of USP 5,032,388 (Tikkanen). This rejection is traversed. Muhler et al does not establish a *prima facie* case of obviousness because it does not teach or suggest all of the claim limitations of Claims 1-3 and 5-8. As stated in the Office Action, Muhler et al "differs from the instant claims insofar as it does not suggest, teach or disclose using about 1.7 to about 20 percent chelating agent. The prior art does, however, unambiguously state that its compositions are effective because, *inter alia*, they reduce tartar formation." The Office Action also states that Tikkanen teaches EDTA in amount ranging from 5 to 7 percent by weight complexes calcium ion, thus preventing tartar formation. Tikkanen "differs from the instant claims insofar as it does not specifically exemplify talc-containing dentifrices." The Office Action goes on to state that "It would have been obvious to have added 5-7 percent EDTA to the high pH toothpastes of the primary reference, motivated by the

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desire to further improve the ability of those toothpastes to inhibit the formulation of tartar per the teachings of the secondary reference."

Applicants assert that there is no motivation to combine the references. As stated in the Office Action, Muhler et al. states that its compositions are effective at reducing tartar formation. Muhler et al.'s invention goes on in detail to describe how the incorporation of talc into a calcined kaolin based dentifrice enables cleaning and polishing dental hard tissue in a novel manner such that reaccumulation of pellicle and material alba and occurrence and reformation of plaque and calculus on oral hard tissues are markedly reduced, thereby significantly reducing the occurrence of gingivitis and other soft tissue and periodontal disease. (column 1, lines 14-29) Muhler et al. also states that "it is a primary object of the present invention to provide a cleaning and polishing agent which is capable of reducing the reformation of dental calculus and the incidence of gingivitis and yet which is suitable for incorporation in a dentifrice preparation." (column 3, lines 29-33) Applicants assert that Muhler et al. invention is focused on cleaning, polishing and reducing calculus so that one having ordinary skill in the art would not have been motivated to look for an additional agent to reduce calculus as the Muhler et al. invention is for that purpose. Therefore, there would be no motivation to combine Muhler et al. with another reference to improve tartar because Muhler et al. already provides that benefit. Tikkanen is focused on the prevention of tartar on teeth. If one was already using the invention of Muhler et al., it would not be necessary to use a chemical (EDTA) to prevent the formation of tartar as that would eliminate the need for the invention in Muhler et al. which is a cleaning, polishing, and reducing calculus dentifrice. Therefore, one having ordinary skill in the art would not have been motivated to combine Muhler et al. with Tikkanen to develop the present invention.

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Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-3 and 5-8 is respectfully requested.

Respectfully submitted,

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